

EXHIBIT A



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 27, 2020

VIA EMAIL

Aaron Mysliwec, Esq.
Meidel & Mysliwec LLP
80 Broad Street, Suite 1900
New York, NY 10004

Re: *United States v. Tony McClam*, 17 Cr. 596 (GBD)

Dear Counsel:

We hereby provide notice, pursuant to Fed. R. Evid. 404(b)(2), that the Government may offer at trial evidence regarding two instances of prior bad acts of the defendant. In the first incident, on or about September 24, 2016, one and a half kilograms of heroin mixed with fentanyl, one kilogram of fentanyl, three ounces of heroin, ten pounds of marijuana, three firearms, and \$446,000 in cash were found in the defendant's residence after the fire department responded to a fire at the location. When law enforcement arrived on the scene, the defendant fled and was not captured until three weeks later on October 18, 2019. The Government may seek to offer evidence of this conduct as well as the defendant's conviction for criminal possession of a controlled substance in the first degree on March 4, 2019, in connection with that conduct.

In the second incident, investigators executed a court authorized wiretap on the defendant's cellphone and intercepted dozens of conversations, between in or about July 2018 and in or about February 2019, in which the defendant discussed the purchase and sale of narcotics, including with coconspirators located in California. As part of this investigation, a search warrant was executed at the defendant's residence where over a kilogram of heroin and in excess of ten pounds of marijuana were found. The Government may seek to offer evidence of this conduct for which the defendant is currently being prosecuted in Nassau County.

Enclosed herewith are copies of materials relating to the two instances of the defendant's prior narcotics trafficking activity. The Government will provide any additional discovery materials as they become available, and will produce any witness statements relating to this evidence in accordance with its obligations pursuant to 18 U.S.C. § 3500. The Government anticipates, in the course of filing and/or responding to motions *in limine*, in accordance with the schedule set by the Court, that it may seek pretrial rulings regarding the admissibility of the evidence discussed above, as direct evidence of the charged conspiracy and/or pursuant to Rule 404(b) as proof of the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, and/or lack of accident with respect to the charge in the Indictment.

Aaron Mysliwiec, Esq.
March 16, 2020

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The Government reserves its right to supplement this notice, and to seek to introduce additional evidence pursuant to Rule 404(b) at trial in response to evidence or arguments offered by the defense at trial.

Sincerely,

GEOFFREY S. BERMAN
United States Attorney

By: /s/
Dominic A. Gentile/Brett Kalikow
Assistant United States Attorneys
(212) 637-2567/2220



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

August 18, 2020

BY EMAIL

Aaron J. Mysliwicz, Esq.
Miedel & Mysliwicz LLP
80 Broad Street – Suite 1900
New York, NY 10004

Re: *United States v. Tony McClam*, 17 Cr. 596 (GBD)

Dear Mr. Mysliwicz:

Based on your request, this letter provides notice, pursuant to Rule 16(a)(1)(G) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."), of certain expert testimony that the Government intends to offer during its case-in-chief at trial. The Government reserves the right to call additional expert witnesses, and will promptly provide notice if the Government elects to do so.

I. Disclosure By the Government

a. Cellular Telephone Records and Cell Site Location Information

The Government expects to offer testimony from Reginald Donaldson, an Investigative Analyst with the United States Attorney's Office for the Southern District of New York. Mr. Donaldson has received specialized training in analyzing cellular telephone records, including in interpreting data regarding the locations of communications towers used to transmit cellular voice, text, and data communications ("cell site location information"). Mr. Donaldson has previously been qualified to offer expert testimony on cell site location information on multiple occasions.

The Government expects that Mr. Donaldson would testify as to his analysis of the defendant's cellular telephone records and those of Raymundo Leal, as well as his opinion regarding the use and/or location of the defendant's and Leal's telephones, including but not limited to the use and/or location of those telephones in the vicinity of the drug transaction that occurred on May 31, 2017 in and around the Vince Lombardi service area in Ridgely, NJ, and on the day preceding the transaction. Mr. Donaldson's opinions are based on his training and experience, as well as records provided by the service providers for the cellular telephones. The

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relevant records were previously produced to you under Bates numbers McClam_000978 and McClam_000100.

Attached are (i) Mr. Donaldson's curriculum vitae; (ii) copies of Mr. Donaldson's training certifications; and (iii) a list of certain prior cases in which Mr. Donaldson provided expert testimony. Please note that this list is a representative sample and may not be comprehensive. It is provided as a courtesy in the event you wish to obtain transcripts of this testimony.

b. Forensic Chemist – Controlled Substance Analysis

The Government expects to offer testimony from Noel R. Vadell, a forensic chemist with the Drug Enforcement Administration ("DEA"). Mr. Vadell is expected to testify regarding the controlled substance analysis he performed in connection with the seizure of the substance reflected in the lab report produced under Bates number McClam_000045, and the conclusion he reached that the substance contained cocaine. Mr. Vadell's opinions are based on his training and experience, as well as his review of data from tests he performed. Mr. Vadell's curriculum vitae is attached, which describes his education, training, and experience.

c. Canine Handler – Narcotics Detection Canine

The Government expects to offer testimony from Frank Aresta, a Task Force Officer with the DEA. TFO Aresta is expected to testify about the canine search he conducted with his German Shepard partner "Cedo" on May 31, 2017 and the canine's positive indication for the presence of narcotics odor. The relevant investigative report detailing Cedo's deployment was previously produced to you under Bates number 3502-07. Attached are Cedo's certification records.

II. Demand for Reciprocal Expert Notice

In light of your request for the foregoing notice, the Government hereby requests reciprocal notice under Fed. R. Crim. P. 16(b)(1)(C). In addition, the Government reiterates its request, dated November 6, 2017, for reciprocal disclosure of any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial or which were prepared by a witness whom the defendant intends to call at trial.

The Government also reiterates its request that the defendant disclose prior statements of witnesses he will call to testify, including expert witnesses. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 225 (1975). We request that such material be provided on the same basis upon which we agree to supply the defendant with 3500 material relating to Government witnesses.

Aaron Mysliwiec, Esq.

August 18, 2020

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Very truly yours,

AUDREY STRAUSS

Acting United States Attorney

By: /s/
Dominic A. Gentile
Brett Kalikow
Assistant United States Attorneys
(212) 637-2567/2220